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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,) No. CR 16-00440 WHA
15 Plaintiff,)
16 v.) STIPULATION AND [PROPOSED] ORDER
17) CONTINUING STATUS CONFERENCE AND
18) EXCLUDING TIME FROM MARCH 5, 2019,
19) THROUGH MARCH 12, 2019.
YEVGENIY ALEXANDROVICH NIKULIN,)
Defendant.)

)

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21 Defendant Yevgeniy Nikulin, represented by Arkady Bukh and Valery Nечай, and the United
22 States, represented by Assistant United States Attorneys Michelle J. Kane and Matthew A. Parrella,
23 hereby stipulate to the following:

24 1. On October 10, 2018, with the agreement of the parties, the Court ordered defendant
25 committed to the custody of the Bureau of Prisons for purposes of a mental competency examination
26 pursuant to 18 U.S.C. § 4241(b) (ECF No. 70);

27 2. The Bureau of Prisons Forensic Psychologist provided a report to the Court, which the
28 Court provided to the parties on February 11, 2019;

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1 3. The parties appeared before this Court on February 12, 2019, for a hearing regarding
2 defendant's mental competency, however, defendant was not present because he had not yet been
3 transported back to this District. The Court set a status conference regarding mental competency
4 proceedings on March 5, 2019, at 2:00 p.m., and, at the parties' request, set an evidentiary hearing on
5 competency on March 19, 2019, at 8:00 a.m.;

6 4. Counsel for the United States conferred with the United States Marshals Service on
7 February 27, 2019, regarding defendant's progress in returning to this District. According to the
8 Marshals Service, defendant was scheduled for the next transport to this District, after the prior transport
9 was cancelled due to severe weather. The Marshals Service could not say for certain when defendant
10 would be back in this District, although it did believe that he would appear for the March 5, 2019, status
11 conference;

12 5. Because counsel for defendant have been unable to consult with defendant regarding the
13 competency report, and because it does not appear that there will be time for such consultation prior to
14 the next status conference, the parties jointly request that the Court continue the March 5, 2019, status
15 conference one week to March 12, 2019, at 2:00 p.m. The continuance should allow counsel for
16 defendant time to consult with defendant and to evaluate the competency report;

17 6. The Court, at the request of the parties, previously designated the case as complex based
18 on the nature of the prosecution, pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii) ("it is unreasonable to expect
19 adequate preparation for pretrial proceedings or for the trial itself within the time limits established by
20 [the Speedy Trial Act]");

21 7. With the agreement of the parties, the Court excluded the time between February 12,
22 2019, and March 5, 2019, from Speedy Trial Act calculations pursuant to 18 U.S.C. § 3161(h)(1)(A) and
23 (F) (delay resulting from proceedings including mental competency evaluations and delay resulting from
24 transportation of defendant from another district).

25 8. The parties continue to agree that the matter is complex based on the nature of the
26 prosecution, and that it is therefore unreasonable to expect adequate preparation for pretrial proceedings
27 or for the trial itself within the time limits established by the Speedy Trial Act, pursuant to 18 U.S.C. §
28 3161(h)(7)(B)(ii).

1 9. The parties also agree that the time until March 12, 2019, is excludable delay resulting
2 from proceedings including mental competency evaluations and delay resulting from transportation of
3 defendant from another district, pursuant to 18 U.S.C. § 3161(h)(1)(A) and (F).

4 IT IS SO STIPULATED.

5 DATED: February 28, 2019

Respectfully submitted,

6 DAVID L. ANDERSON
United States Attorney

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8 _____
9 MICHELLE J. KANE
MATTHEW A. PARRELLA
Assistant United States Attorneys

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11 _____
12 ARKADY BUKH
Counsel for Yevgeniy Alexandrovich
Nikulin

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14 _____
15 VALERY NECHAY
Counsel for Yevgeniy Alexandrovich
Nikulin

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17 **ORDER**

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19 Based upon the stipulation of counsel, and for good cause shown, the Court finds that the case is
20 complex based on the nature of the prosecution and that it is therefore unreasonable to expect adequate
21 preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy
22 Trial Act. 18 U.S.C. § 3161(h)(7)(B)(ii). The Court further finds that the ends of justice served by
23 granting the continuance outweigh the best interests of the public and the defendant in a speedy trial. 18
24 U.S.C. § 3161(h)(7)(A).

25 Also based upon the stipulation of counsel, and for good cause shown, the Court finds that the
26 time from March 5, 2019, through March 12, 2019, is excludable delay resulting from proceedings
27 including mental competency evaluations and delay resulting from transportation of defendant from
28 another district, pursuant to 18 U.S.C. § 3161(h)(1)(A) and (F).

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1 Therefore, IT IS HEREBY ORDERED that the status conference shall be continued from March
2 5, 2019, to March 12, 2019, at 2:00 p.m. and that the time from March 5, 2019, to March 12, 2019, shall
3 be excluded from computation under the Speedy Trial Act.

4 IT IS SO ORDERED.

5 Dated: March 4, 2019.


HON. WILLIAM ALSUP
United States District Judge